

**MAY 18 2006**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAKESH SHARMA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74831

Agency No. A77-428-480

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 15, 2006\*\*

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Rakesh Sharma, a native and citizen of India, petitions for review of the Board of Immigration Appeals' decision summarily affirming an immigration judge's ("IJ") order denying his application for asylum, withholding of removal

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence adverse credibility findings, *Gui v. INS*, 280 F.3d 1217, 1225 (9th Cir. 2002), and we deny the petition for review.

Substantial evidence supports the IJ’s adverse credibility finding because Sharma testified inconsistently about whether he told police he had been in contact with militants prior to his first arrest. In addition, Sharma testified in detail about how he was thrown in a canal and how he eventually arrived at a farmhouse after his second arrest, whereas he told the asylum officer that he had no memory of how he arrived at the farmer’s home. Because these discrepancies go to the heart of his asylum claim, *see Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001), substantial evidence supports the denial of asylum, *see Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000).

In the absence of credible testimony, Sharma also failed to establish eligibility for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003). Because Sharma’s claims under the CAT are based on the same facts the IJ found to be incredible, and Sharma points to no other evidence that should have

been considered, he has failed to establish eligibility for CAT relief. *See id.* at 1157.

**PETITION FOR REVIEW DENIED.**